IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Alam Khan. Versus State of Rajasthan.

S.B. Criminal Revision No. 189/1992 against the judgment and order dated 5-8-1992 passed by the Additional Sessions Judge, Banswara, in Criminal Appeal No. 55/1992.

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Date of Order: May 02, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. S.K. Poonia for Mr. Sanjay Mathur, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.

BY THE COURT:

This criminal revision under Section 397 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the judgment and order dated 5-8-1992 passed by the Additional Sessions Judge, Banswara (for short, "the Appellate Court" hereinafter) in Criminal Appeal No.55/1992, whereby the appeal filed by the petitioner against the judgment dated 25-11-1991 and order of sentence dated 26-11-1991 passed by the Chief Judicial Magistrate, Banswara (for short, "the trial Court" hereinafter) in Criminal Case No. 114/1984 was partly allowed and while maintaining the conviction of the

petitioner for the offence under Section 409 IPC, the substantive sentence of imprisonment was reduced from one year to six months rigorous imprisonment, however, the sentence of fine was maintained and in default of payment of fine to undergo 1 ½ months simple imprisonment. Aggrieved by the judgment and order impugned, the petitioner has filed the instant criminal revision.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the judgments and orders of the Appellate Court as well as of the trial Court.

The petitioner was appointed as Patwari and for the period from 12-5-1978 to 5-7-1982, he was posted as the Patwari in the Patwar "Halka" (Circle) Nogama in tehsil Bagidaura. While working as the Patwari, the petitioner received amount from various agriculturists as the land revenue. On the receipts given to the agriculturists, the amounts received from the agriculturists were mentioned, however, in the duplicate copy, the petitioner forged the receipts and the actual amounts received from the agriculturists were not deposited in the Government Treasury, on the contrary, lesser amount was deposited and thereby, on revenue being deposited by the agriculturist, the petitioner, being a government servant and entrusted with the amount, was required to deposit the same

with the government but he misappropriated the same for his own gain and misappropriated the amount of Rs.1216.62p.

Before the trial Court, the prosecution produced as many as 30 witnesses and the documents EX.P/1 to EX.P/24. From the statements of prosecution witnesses and the documents which were found to be written by the petitioner, the trial Court came to the conclusion that the petitioner, being a public servant, was entrusted with the amount as he received the amount from various agriculturists as land revenue but failed to deposit the same with the government and misappropriated the same during the period from 12-5-1978 to 5-7-1982 and as such the accused-petitioner committed the offence punishable under Section 409 IPC.

On an appeal, the Appellate Court, on re-appreciation of the evidence, came to the conclusion that the prosecution has proved the case beyond reasonable doubt against the petitioner for the offence under Section 409 IPC and accordingly, the judgment and order of the trial Court convicting the petitioner was affirmed, however, taking a lenient view, the sentence of imprisonment was reduced from one year to six months rigorous imprisonment.

The petitioner has been convicted in two other cases also for the similar nature of offence, which shows that while posted as the Patwari in the area, the petitioner has committed

criminal breach of trust being a public servant by retaining and using the amount collected from various agriculturists as land revenue.

I have carefully gone through the record of the trial Court. The conclusions arrived at by both the Courts below holding the petitioner guilty for the offence under Section 409 IPC are well-founded on the evidence and, therefore, I do not find any error, illegality or perversity in the judgments and orders of the courts below warranting interference in revisional jurisdiction.

Consequently, the criminal revision filed by the petitioner is hereby dismissed.

(H.R. PANWAR), J.

mcs